

Subject: Review of the Data Protection Act (previously GDPR Policy) and Freedom of Information Act Policies

Report to: ELT – 3 June 2019
Policy and Resources Committee – 11 June 2019

Report by: Corporate Services Manager

SUBJECT MATTER/RECOMMENDATIONS

Following a review of the Council's Data Protection and Freedom of Information Act Policies several changes have been made to improve and bring the policies in line with current regulations if the policies are approved they will be published on the Council's website.

Members are asked to:-

- Approve the revised Data Protection Act (previously GDPR Policy).
- Approve the revised Freedom of Information Act Policy

1. INTRODUCTION

The following policies have been reviewed and updated in line with current legislation:

- Data Protection Act (formerly General Data Protection Regulations GDPR)
- Freedom of Information Act

The Interim Data Protection Officer having reviewed the current General Data Protection Regulations and Freedom of Information Policies has made a number of changes to the Policies to update and bring the policies in line with legislation

Data Protection (formerly General Data Protection Regulations GDPR)

The original policy contained a large amount of detail with regard to the background

to the General Data Protection Regulations and the Data Protection Principles. The review has allowed for the policy to be reduced significantly to provide a more up to date and robust version and has been retitled to the Data Protection Policy.

Since the policy was introduced the Council have nominated Information Champions across all services of the Council who have all received training this addition has been added in to the responsibilities section within the revised policy.

The revised policy also contains amended details of the following: -

- The Council's complaints and internal review process
- Contact information for the Information Commissioners Office.

The policy will be reviewed every two years, the next review will be in 2021.

Freedom of Information

Following a review of the Freedom of information policy a small number of amendments have been made:-

- Page numbers have been added
- Wording within the policy has been amended to bring the information up to date with regard to the Data Protection Act 2018.
- Reference to facsimiles has been removed
- Contact details for the Information Commissioners website has been added

2. FINANCIAL IMPLICATIONS

None

3. RISK IMPLICATIONS

None

4. RECOMMENDATIONS

Members are asked to:-

- Approve the revised Data Protection Act (previously GDPR Policy)

- Approve the revised Freedom of Information Act Policy

Areas of consideration: e.g. does this report raise any of the following issues and if so how have these been considered/mitigated against?

Area for consideration	Comment
Monitoring Officer Consultation:	Yes
Section 151 Officer Consultation:	No
Existing Council Policies:	Yes
Financial Implications (including VAT and tax):	No
Legal Implications (including human rights):	No
Risk Implications:	No
Equality Issues/EQIA assessment:	No
Crime & Disorder:	No
Every Child Matters:	No



Data Protection Policy Summary

This policy forms part of the Council's data and information handling policies and should be read in conjunction with the Freedom of Information and Environmental Information Policies.

This policy has been written to ensure that the council complies with its obligations and statutory requirements under the General Data Protection Regulations (EU) 2016/679 and the Data Protection Act 2018.

This policy seeks to establish a standard set of conditions, and a framework for data protection within the Council. The Policy is designed to ensure that there are clear internal arrangements for the effective management of data protection.

Date of Policy:	May 2019
Policy Owner:	Data Protection Officer
Ratified by:	ELT
Next Review Date:	May 2021



Great Yarmouth Borough Council
Data Protection Policy

Author	Emma Pheby
Date	May 2019
Last Review Date	May 2019
Review Changes	
Version	1.0 (Replaces previous GDPR Policy)
Document Status	Draft

1. Policy Statement

- 1.1 Great Yarmouth Borough Council lawfully processes information about its residents, Members, employees, customers and other individuals in order to carry out its everyday business and to fulfil its public functions.
- 1.2 Great Yarmouth Borough Council is committed to protecting the rights of privacy and processing will be conducted fairly, lawfully and transparently in accordance with the General Data Protection Regulation (EU 2016/679), the Data Protection Act 2018, Guidance issued by the Information Commissioner's Officer (the ICO) and all other applicable data protection law ('**Data Protection Legislation**').
- 1.3 Data subjects have legal rights including the right to request: access to their data; rectification of an error; erasure of their details; restriction of processing; portability of their data; and to object to processing. To find out more about these rights please see paragraph 7.
- 1.4 This Policy must be read and complied with by all permanent staff, temporary staff, Councillors, Partner Organisations, other authorised third parties (suppliers and contractors) and all other authorised users. It must be adhered to when processing any of Great Yarmouth Borough Council's personal data.
- 1.5 This policy is open to all internal and external stakeholders and is available on the Council's website.

2. Responsibilities

- 2.1 Data Protection Legislation requires all public authorities to designate a Data Protection Officer. The Data Protection Officer for Great Yarmouth Borough Council is involved in matters which relate to the protection of personal data and is required to monitor compliance, provide advice and to cooperate/communicate with the Regulator as required. In the absence of the Data Protection Officer there will be a duly designated person or persons who will deputise.
- 2.2 The Senior Information Risk Owner (SIRO) is responsible for ensuring information assurance controls are in place.
- 2.3 The Strategic Leadership Team is responsible for developing and encouraging robust information handling practices within the Council.
- 2.4 Data champions have been nominated from across the Council who have received additional training and help to ensure that all the Council services maintain our high standards.
- 2.5 Beyond this, compliance with Data Protection Legislation is the responsibility of everyone that processes personal data on behalf of the Council. The Council, through its staff, Members and authorised third parties, is responsible for ensuring that any personal data is processed in accordance with Data Protection Legislation.

3. Data Protection Legislation Principles

3.1 All processing of personal data must be done in accordance with the data protection principles as prescribed in Data Protection Legislation:

- a. Personal data shall be processed lawfully, fairly & transparently (**'lawfulness, fairness and transparency'**);
- b. Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes (**'purpose limitation'**);
- c. Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (**'data minimisation'**);
- d. Personal data shall be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (**'accuracy'**);
- e. Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed (**'storage limitation'**);
- f. Personal data shall be processed in a manner that ensures appropriate security of the personal data, including against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (**'integrity and confidentiality'**).

3.2 Furthermore, as a Data Controller Great Yarmouth Borough Council are responsible for, and required to demonstrate compliance with the principles (**'accountability'**). The Council's accountability is demonstrated in numerous ways, including:

- The provision of mandatory data protection training, refresher training and advanced training for Data Champions;
- The assignment of responsible individuals across the organisation (as set out at Section 2) including the assignment of the Data Protection Officer and Data Champions from across service areas who help to maintain high standards of data privacy and attend regular meetings;
- Through the application of Council policies which are all regularly reviewed, promoted and accessible and read by all new employees.
- Through a robust internal audit system.

4. Lawful Processing

4.1 Personal data will be lawfully processed by the Council at all times. There are six ways in which lawful processing can occur, however only five of these are

available to the Council as a public authority in the performance of their public tasks.

- 4.2 The ways of lawful processing under Article 6(1) GDPR are:
- a. The data subject **consents** to the processing for one or more specific purpose.
 - b In the performance of a **contract** to which the data subject is a party
 - c. In compliance with a **legal obligation**.
 - d. It is necessary to protect the **vital interests** of the data subject
 - e Processing is necessary for the performance of a task carried out in the public interest or in **the exercise of the official authority** vested in the controller.
 - f. Processing is necessary for the purposes of the **legitimate interests** pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.
- 4.3 When Great Yarmouth Borough Council exercises its official obligation to provide services, the lawful ground generally used will be Article 6(1)(e).
- 4.4 Consent - The Council hereby acknowledges the Regulator's Guidance on Consent which identifies that public authorities will rarely be able to use consent as their lawful processing ground. However, where consent is the lawful processing ground used this will be:
- a) Clearly identified and sought in a transparent, plain and clear manner ensuring compliance with the ICO's guidance.
 - b) Able to put individuals in control of their data, build trust and engagement and maintain the Council's high-standards.
 - c) Important in providing genuine choice and control. It will be an affirmative action and will not be deemed or gathered by pre-ticked or opt-out boxes.
 - d) As easy to withdraw as it was to provide consent. We will clearly explain how consent can be withdrawn and continue to do so in future interactions.
 - e) Reviewed and refreshed regularly.
 - f) Acted upon, ensuring that appropriate action is taken to prevent further processing where consent is withdrawn.

Any questions in regards to these matters should be directed to the Data Protection Officer.

5. Privacy Notices

- 5.1 When we collect personal information from data subjects we will be clear and transparent about this in what is termed, a Privacy Notice. Data Protection Legislation stipulates the information which must be provided.

You can see further details of our privacy notices both on the specific forms and on our website here: <https://www.great-yarmouth.gov.uk/privacy>

5.2 A privacy notice includes the details as set out under the GDPR at Article 13. We set this out in a clear and accessible manner explaining details such as:

- Who we/the joint data controller is;
- The contact details of the Council's Data Protection Officer;
- The purpose we are collecting the data for and our legal basis for doing so;
- The recipients of this data;
- How long we store this data for or otherwise our retention criteria;
- Your rights
- And dependent upon the issue, we may also include additional information in compliance with the legislation.

Please note sometimes this information will be layered.

5.3 The Council values feedback to ensure we follow best practice and provide clear and transparent information to all our customers. Therefore if you have any feedback in this regard please contact us at gdpr@great-yarmouth.gov.uk

6. Security of Data

6.1 The Council implements appropriate technical and organisational measures to ensure a level of security appropriate to the risks.

6.2 All staff are responsible for ensuring that any personal data which they hold is kept securely and that they are not disclosed to any unauthorised third parties.

6.3 All personal data should be accessible only to those who need to use it. To ensure an appropriate level of security, we will consider the following:

- Storing the data in a secure access controlled room;
- Storing the data in a locked drawer or filing cabinet;
- If computerised, we will limit accessibility and ensure it is kept on a secure system;
- If it is required to be taken off site, storage will be considered on an encrypted disk or where it is in paper form, in a locked case.
- Care will be taken to ensure that PCs and screens are only visible to authorised individuals.
- Computer passwords will be kept confidential.

6.5 We ensure that care is taken with the safe disposal or deletion of data ensuring systematic and secure destruction in line with the Council's Records Management Policy and the Retention Schedule.

6.6 Where data is transferred to a third-party individual or organisation, we take steps to ensure that the data remains secure both in transit and upon receipt. We cannot however be held responsible for data once it reaches the third party unless they are an authorised data processor for the Council, in which

case we take due diligence to ensure they meet Council standards of security.

6.7 The Council has in place measures which ensure compliance with security requirements.

6.8 The Council is committed to ensuring that any data breaches are promptly reported internally and robustly investigated by the Data Protection Officer and that mitigating steps are taken at the earliest opportunity. Where legally required the Data Protection Officer will notify the Information Commissioner's Office of any relevant breaches in line with the Council's Breach Notification Procedure.

7. Rights of Data Subjects

7.1 Data Protection Legislation provides individuals with the right to:

- i) access their data;
- ii) port their data;
- iii) erase their data;
- iv) object to the processing;
- v) rectify their data;
- vi) restrict the processing

7.1.1 The rights set out at 7.1 are not absolute rights and may be dependent upon the lawful processing ground used. Furthermore, they may be subject to an exception or an exemption as set out under Data Protection Legislation.

7.1.2 We will take reasonable authentication steps to verify your identity. We will ordinarily request to see two original forms of identification as detailed on our Subject Access Request Form.

7.1.3 Where one of the rights detailed at 7.1 are exercised, these will be actioned by the Council without undue delay and ordinarily within one calendar month. This time may, on occasion, be extended by up to two months, in compliance with Data Protection Legislation. Where it is necessary to extend this time we will the data subject of the reasons for this delay.

7.2 The Data Protection Officer

7.2.1 The Data Protection Officer and team can be contacted by e-mail at gdp@great-yarmouth.gov.uk

7.3 Subject Access Request

A subject access request made in electronic form will ordinarily be responded to in the same format, unless otherwise requested.

A charge will not usually be made for a subject access request. Data Protection Legislation prescribes that a charge could only be made whereby further copies of personal data are requested by a data subject. However in those circumstances, the Council will make an assessment as to whether we have the resources to deal with the request in line with Article 12 (5) of the GDPR or whether this will be refused under Article 12(5)(b).

8. The Regulator – The Information Commissioner’s Office

You also have a right to lodge a complaint with the Information Commissioner’s Office:

Information Commissioner’s Office,
Wycliffe House,
Water Lane, Wilmslow,
Cheshire, SK9 5AF
<https://ico.org.uk/>

(t) 0303 123 1113

9 Disclosure of Data

9.1 Personal data may be lawfully disclosed where one of the following conditions apply:

- The individual has given their consent (eg. a member of staff or a customer has consented for the Council to correspond with a named third party).
- There is a Power of Attorney in place which authorises a third party to act on behalf of the data subject in relation to that issue.
- This is allowed by legislation. The Data Protection Act 2018 sets out exemptions from GDPR at Schedules 2 and 3.

10 Freedom of Information Act 2000

10.1 The Freedom of Information Act 2000 allows the public access, subject to certain exemptions, to all types of non-personal information held by public authorities, including this Council. However, requests for personal information will be dealt with under Data Protection Legislation. See Great Yarmouth Borough Council’s Freedom of Information Policy for further information.

11 Complaints and Internal review

11.1 Great Yarmouth Borough Council’s ‘Comments and Complaints Procedure’ (available on the Council’s website) will be applied in the event of any complaints received.

You can also request an internal review of our decision regarding the exercise of your rights or in regards to how we process personal data.

14.2 If you wish to request an internal review of our decision regarding the exercise of your rights please contact the Council's Data Protection Officer. We will undertake a review both of the information collected and the decision made and ordinarily respond to you within one calendar month. Where this is complex and additional time is required we will let you know at the earliest opportunity that an extension is required.

12 IMPLEMENTATION

This policy will initially be implemented through the Chief Executive and Strategic Directors of the Council.

A email will be sent to all employees to make them aware of the policy.

It is the responsibility of managers to ensure that new staff receive information about this Policy, and should be part of any local induction where appropriate. Human Resources will add the Policy to its list of policy issues provided to any new starters. Managers must also ensure that any changes to this policy are effectively communicated within their areas of responsibility.

All staff under data protection training and will undertake a yearly refresher course covering the basic principles of the Data Protection Act or must pass a test to show their understanding. Furthermore, the Council has data champions across the Council who have received additional training who will assist the Council with cascading information regarding data protection.

13. COMPLIANCE

Managers are responsible for ensuring that staff are aware of the location of this policy. In addition, Managers are responsible for keeping staff up to date about any changes within the policy.

All staff are obliged to adhere to this Policy.

14. EQUALITY IMPACT ASSESSMENT

There are no Equality Impact issues with this policy; however specific procedures

used to enact the policy must be evaluated separately.

15. HEALTH AND SAFETY

There are no Health and Safety implications with this policy.

16 REFERENCE DOCUMENTS

This Policy should be read in conjunction with the following legislation, regulations and Council policies:

- Freedom of information Act Policy
- Environmental Information Regulations Policy
- Data Protection Impact Assessment Policy

17 DISTRIBUTION

This Policy will be available for all the Council's designated locations. Copies will also be available from the 'I' drive and on the Council's Internet and Intranet web sites.

18 REVIEW

This Policy will be reviewed every two years with the next review date being May 2021. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.



Freedom of Information Act Policy Summary

This policy forms part of the council's data and information handling policies and should be read in conjunction with the Data Protection Act and Environmental Information Policies.

This policy has been written to ensure that the council complies with its obligations and requirements under the Freedom of Information act.

This policy seeks to establish a standard set of conditions, and a framework for transparency of information within the Council. The Policy is designed to ensure that there are clear internal arrangements for the effective management of information transparency.

Date of Policy:	May 2019
Policy Owner:	Data Protection Officer
Ratified by:	EMT
Next Review Date:	May 2021



Great Yarmouth Borough Council

Freedom of Information Policy

Author	Data Protection Officer
Date	May 2019
Last Review Date	May 2019
Review Changes	May 2021
Version	3.0
Document Status	Final

1.0 INTRODUCTION	4
1.1 Policy Rationale	4
1.2 Scope	4
1.3 Principles.....	4
2.0 FREEDOM OF INFORMATION ACT POLICY.	5
2.1 Introduction.....	5
2.2 Aim.....	5
2.3 Scope.....	5
2.4 Objectives.....	6
2.5 Policy Statement.....	6
2.6 Publication Scheme.....	6
2.7 Codes of Practice	6
2.8 Information Held	7
2.9 Provision of Advice and Assistance	7
2.10 Requests for Information	7
2.11 Provision of Information	7
2.12 Transfer of Requests	8
2.13 Fees and Charges	8
2.14 Exemptions	9
2.15 Refusals.....	9
2.16 Vexatious and Repeat Requests.....	10
2.17 Training.....	10
2.18 Responsibilities	10
2.19 Complaints	12
2.20 Policy Review	12
3.0 IMPLEMENTATION AND COMPLIANCE	13
3.1 Implementation	13
3.2 Compliance	13
4.0 EQUALITY IMPACT ASSESSMENT.....	13
5.0 HEALTH AND SAFETY	13
6.0 REFERENCE DOCUMENTS.....	13
7.0 DISTRIBUTION	14
8.0 REVIEW.....	14

1.0 INTRODUCTION

This policy forms part of the council's data and information handling policies and should be read in conjunction with the Data Protection and Environmental Information Policies.

1.1 POLICY RATIONALE

This policy has been written to ensure that the council complies with its obligations and requirements under the Freedom of Information Act.

The Council is of the view that there is a need to ensure that an agreed standardised approach is being taken to information transparency, in order to ensure compliance with legal and audit requirements.

This policy seeks to establish a standard set of conditions, and a framework for transparent information within the Council.

1.2 SCOPE

This Policy will apply to all Council employees.

1.3 PRINCIPLES

The Policy is designed to ensure that there are clear internal arrangements for the effective management and release of information.

2.0 FREEDOM OF INFORMATION ACT POLICY.

2.1 Introduction

The Freedom of Information Act 2000 (FOIA) “provides an over-arching right of access to all information held by a local authority, over and above existing statutes relating to specific service areas where authorities hold a large range of information”.

Individuals have a separate right of access to their personal information under the General Data Protection Regulation 2016/679 and Data Protection Act 2018. Great Yarmouth Borough Council's Data Protection Policy provides further information.

The FOIA allows public access to recorded information held by local authorities. The FOIA allows access to information regardless of when that information was created or how long it has been held, and also sets out exemptions, as well as places a number of obligations on public authorities. The FOIA came into force on 1 January 2005.

The FOIA requires Great Yarmouth Borough Council to produce and maintain a Publication Scheme and to comply with requests for information (unless exempt from disclosure).

This policy should be read in conjunction with the Council's ICT Strategy, Data Protection Policy and Records Management and Data Retention Policy.

2.2 Aim

The aim of this policy is to:

- provide a framework that ensures that the Council complies with the FOIA;
- promote transparency of decision making by the Council;
- improve and enhance the democratic process; and
- build public trust and confidence.

This policy will be available to all internal and external stakeholders and will be on the Council's website www.great-yarmouth.gov.uk.

2.3 Scope

Records can be defined as “information that is written on paper or stored on computer so that it can be used in the future”. Records covered by this policy

include all Great Yarmouth Borough Council records (irrespective of the medium) which belong to or are in the custody of the Council or any of its officers and members. This policy will apply to all Great Yarmouth Borough Council officers, members, contractors, partners, consultants and service providers who have access to the Council's records. Failure of a contractor/partner/consultant/service provider to comply could lead to legal action and the cancellation of a contract.

2.4 Objectives

Great Yarmouth Borough Council will ensure that:

- responsibility for Freedom of Information (FOI) within the organisation is assigned to a suitably trained team;
- everyone managing and handling FOI requests are appropriately trained and supervised;
- anyone wanting to make enquiries about FOI requests, whether a member of staff or a member of the public, knows what to do;
- queries about handling FOI requests are promptly and courteously dealt with in compliance with the legislation, and
- methods of handling FOI requests are regularly assessed and evaluated.

2.5 Policy Statement

Great Yarmouth Borough Council will increase the access given to individuals to information to promote openness and transparency of decision making by the Council.

2.6 Publication Scheme

As required by the FOIA, Great Yarmouth Borough Council has adopted and maintains a Publication Scheme as a guide to the information that it holds which is publicly available. Any individual or organisation who requests it will be informed whether the Council holds the information and, subject to exceptions or exemptions, be supplied with it. The Publication Scheme, which is available on the Council's website at www.great-yarmouth.gov.uk, will be reviewed on a regular basis.

2.7 Codes of Practice

The Act has created two codes of practice:

- *Access Code (Section 45)* – This deals with how to handle requests for information including the level of advice and assistance expected; transferring requests from one public authority to another; and consulting with third parties who may be affected by the release of information.

- *Records Management (Section 46)* – Public authorities must have good records management procedures in place to comply with its obligations under the FOIA.

2.8 Information Held

Great Yarmouth Borough Council holds information as long as necessary to enable it to perform its functions. Every effort is made to ensure that the information is accurate and up-to-date and that inaccuracies are corrected quickly.

2.9 Provision of Advice and Assistance

All Great Yarmouth Borough Council officers and members, will provide advice and assistance in response to FOI requests in compliance with the FOIA. Advice and assistance includes publishing procedures for applicants to understand how the Council deals with requests for information and advice about their rights of access under the FOIA.

2.10 Requests for Information

Any request for recorded information held by Great Yarmouth Borough Council in any format will be treated as a request under the FOIA, unless another statutory access right applies (eg Data Protection Act 2018). Requests will be accepted from any individual or organisation. Applicants will not be required to cite the Act when requesting information.

All requests must be submitted in writing and must state the name and address of the person applying for the information. Correspondence, including e-mails that provide all the necessary details to process an application will be accepted as valid requests, although the Council will provide an electronic (on-line) application form. Applicants do not have to explain the purpose of their request, although it may be necessary to obtain further information from them during the course of responding to their request.

All officers will follow the agreed procedures published and monitored by the FOI team.

2.11 Provision of Information

Where information is not subject to exemptions, Great Yarmouth Borough Council will:

- provide information to any individual who requests it in the format specified by the applicant*, eg paper copy, electronic copy, viewing in situ and/or summary information.

- comply with requests for access to information as quickly as possible, and **within 20 working days of receipt of the request (or payment of fee, if applicable).**

**Should the Council deem it unreasonable to supply information in the format requested by the applicant as a result of practical or cost implications, then the applicant will be informed of the reasons for this decision. The Council will, however, still supply the information by any other reasonable means.*

Due to the Public Interest Test (section 2.14 refers), it may not be possible to deal with requests within 20 working days. In these circumstances, the Council will give a realistic estimate of when a decision will be made as to whether the information will be provided. If it becomes apparent that the decision will not be made within the estimated time given, the Council will inform the applicant of any delay as soon as possible. The reasons for the delay will also be given. The FOI Officers will monitor all instances where estimates are exceeded.

2.12 Transfer of Requests

Where a request for information is received and Great Yarmouth Borough Council does not hold all or any of the information requested, the Council will deal with the areas it is responsible for and advise the applicant that the other information is held by another authority and will provide the relevant contact details.

2.13 Fees and Charges

Wherever possible, Great Yarmouth Borough Council will provide information free of charge. Charges may be levied for certain information or publications listed in its Publication Scheme. Where this is the case, the applicable charge will be listed against the relevant item and will be payable prior to the information being supplied.

Fees may be incurred in line with Regulation 6(3) of The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations SI No 3244 ('Fees Regulations'), to cover the costs of locating, retrieving and communicating the information to the applicant (e.g. photocopy and postage).

A fees notice will be sent to the applicant, which must be paid within three months. If the fee is not paid within this time limit, it will be assumed that the applicant no longer wants the information.

The Council will advise the applicant as soon as possible if their request for information exceeds the maximum defined in the FOIA Fees Regulations. In these circumstances, the applicant will be offered the opportunity to either amend their request so that as much of the information that they had originally requested can be provided within the fee limit, or pay the full cost over the maximum

stipulated where this is practical and manageable.

2.14 Exemptions

In certain circumstances Great Yarmouth Borough Council is not obliged to release information, these are called exemptions. The Council will endeavour to apply exemptions fairly, objectively and consistently and will not use exemptions as a means of obstructing access. A list of the exemptions to the FOIA can be found on the Information Commissioner's website at www.ico.org.uk.

Where exemptions apply to only some of the information requested by an applicant, Great Yarmouth Borough Council will release as much information as it can by redacting the information deemed to be exempt. The Council may not be obliged to confirm or deny the existence of information, or to advise in respect of exemptions applied, where to do so would in itself disclose exempt information.

Some exemptions are absolute which means that they are applicable whenever the exemption is valid however other exemptions are qualified and therefore only apply when the Public Interest Test is met.

When considering the Public Interest Test we assess whether the public interest in withholding the information outweighs the public interest in disclosure of the information.

2.15 Refusals

Requests for information will not be processed where the information:

- does not exist in a recorded format;
- is intended for future publication;
- is already contained within Great Yarmouth Borough Council's Publication Scheme;
- is already available via an existing charged service, eg public register;
- is subject to existing legislation where statutory access rights apply either to the Council or any other public authority.

Great Yarmouth Borough Council will provide written notice to applicants of refusals and/or part refusals of requests for information. The notice will include details of any exemptions that have been applied. In cases where the public interest test has been applied resulting in non-disclosure, the reasons for refusal will be given.

The notice will also include details of the procedure if the applicant wishes to appeal against the decision.

2.16 Vexatious and Repeat Requests

Great Yarmouth Borough Council will not comply with vexatious requests where there is a strong likelihood that such requests are being made to intentionally cause harassment, divert resources and/or disrupt the proper workings of the Council.

The Council will not comply with a request where it has received an identical or similar request from the same individual unless a reasonable interval has elapsed between compliance with the original request and the current request. A written notice stating when a request is deemed vexatious or a repeat will be sent to the applicant.

2.17 Training

Staff and Members will receive appropriate training to ensure they are fully informed of their obligations under the FOIA and are aware of their personal liabilities. Further specific training will be given to staff with extra responsibilities for administering and/or monitoring the FOIA.

2.18 Responsibilities

Overall responsibility for the efficient administration of the Act lies with the 'Data Protection Officer', who will:

- assess the understanding of the obligations of Great Yarmouth Borough Council under the FOIA;
- be aware of the authority's current compliance status;
- identify and monitor problem areas and risks and recommend solutions;
- promote clear and effective procedures and offer guidance to staff on FOI issues;

- be responsible for the provision of cascade FOI training for staff and members;
- develop best practice guidelines;
- carry out compliance checks to ensure adherence with the FOIA throughout the authority.

Day to day responsibility for administration and compliance with this policy is delegated to Data Protection Officer who will:

- monitor compliance with this policy, the FOIA and associated procedures;
- implement security requirements and access rights to documents and records;
- coordinate and monitor FOI requests, in liaison with the FOI Officer;
- coordinate the proactive development of the Publication Scheme, in liaison with the FOI Officer, the Communications Officer and the web authors.

The Data Protection Officer will provide advice and guidance in respect of compliance with the FOIA. This will include:

- overseeing and coordinating responses to FOIA requests;
- monitoring and tracking requests to ensure that deadlines for responses are met;
- providing advice and guidance about third party duty of confidentiality, exemptions and public interest test issues (in consultation with the Data Protection Officer);
- coordinate training for officers and members in respect of compliance with this policy and the FOIA; and
- develop and implement policy, procedures and guidance.
- assume responsibility for managing the content/entries in the Publication Scheme.

'Access to Information Representatives' will be identified in all departments and will, together with the '*Data Protection Officer*', be responsible for ensuring that this policy is implemented.

All staff and members must comply with this policy and are responsible for ensuring that:

- all information they hold, whether electronically or manually, is kept secure; and
- personal information is not disclosed deliberately or accidentally either orally or in writing to any unauthorised third party.

2.19 Internal Reviews

If you are unhappy with the outcome of your FOI decision notice, we can undertake an internal review of our decision under section 45 FOI Code of Practice. Ordinarily an internal review will be finalised within 20 working days of your request. However, in exceptional cases longer may be required, in line with the Code of Practice, we will let you know and the review will be finalised within 40 working days. Please inform us by email or by completing the online FOI request form should you require an internal review.

2.20 Policy Review

This policy will be managed and reviewed biannually. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.

3.0 IMPLEMENTATION AND COMPLIANCE

3.1 IMPLEMENTATION

This policy will initially be implemented through the Chief Executive and Corporate Directors of the Council.

A memo will be sent to all employees to make them aware of the policy.

It is the responsibility of managers to ensure that new staff receive information about this Policy, and should be part of any local induction where appropriate. Human Resources will add the Policy to its list of policy issues provided to any new starters. Managers must also ensure that any changes to this policy are effectively communicated within their areas of responsibility.

All staff will undertake a yearly refresher course covering the basic principles of the Freedom of Information Act and must pass a test to show their understanding.

3.2 COMPLIANCE

Managers are responsible for ensuring that staff are aware of the location of this policy. In addition, Managers are responsible for keeping staff up to date about any changes within the policy.

All staff are obliged to adhere to this Policy.

4.0 EQUALITY IMPACT ASSESSMENT

There are no Equality Impact issues with this policy; however specific procedures used to enact the policy must be evaluated separately.

5.0 HEALTH AND SAFETY

There are no Health and Safety implications with this policy.

6.0 REFERENCE DOCUMENTS

This Policy should be read in conjunction with the following legislation, regulations and Council policies:

- Data Protection Act Policy
- Environmental Information Regulations Policy

7.0 DISTRIBUTION

This Policy will be available for all the Council's designated locations. Copies will also be available from the 'I' drive and on the Council's Internet and Intranet web sites.

8.0 REVIEW

This Policy will be reviewed every two years with the next review date being 2021.

Not Protectively marked (Impact Level 0)